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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,768	11/28/2000	Hiroshi Kondo	1503.64981	6836

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EXAMINER

PUENTE, EMERSON C

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,768

Applicant(s)

KONDO ET AL.

Examiner

Emerson C. Puente

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-30,32,33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-30,32,33,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 March 2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4/18/05.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2113

DETAILED ACTION

This action is made **Final**

Claims 13-30, 32-33, and 35-36 have been examined. Claims 1-12, 31, and 34 have been cancelled.

Claim Objections

Claim 28 is objected to because of the following informalities:

In regards to claim 28, please change the limitation "the one first system"(see lines 9 -10 of claim) to "the one system". There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-25, 27, 29, 32, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 13, 27, 29, 32, and 35, claim cites "a notification device notifying a device control unit that performs control over the failed device, of the prohibition of use of the failed device by enabling the device control unit to attempt to access the failed device" and

Art Unit: 2113

further cites “the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device”. These limitations are contradictory. If the control unit recognizes the prohibition of use of the failed device, then the control unit is not being notified of the prohibition of use of the failed device, but instead determines the failure itself

The remaining claims, not specifically mentioned, are rejected because they are dependent upon one of the claims mentioned above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-23, 27, 29, 32, and 35 are rejected under 35 U.S.C. **102(b)** as being anticipated by US Patent No. 5,530,946 of Bouvier et al. referred hereinafter “Bouvier”.

In regards to claim 13, Bouvier discloses a notification apparatus, comprising:

means for determining a failure has occurred in a device and a use of the failed device is prohibited (see column 6 lines 30-35)

a notification device notifying a device control unit (see figure 2 items 240, 250, 252, 256) that performs control over the failed device (see column 3 lines 1-5), of a prohibition of use of the failed device by enabling the device control unit to attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access

Art Unit: 2113

the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 14, Bouvier discloses:

wherein said notification device includes a pseudo-interrupt issuance device making the device control unit access the failed device by issuing a pseudo- interrupt to the device control unit and calling up an interrupt process of the device control unit. Bouvier discloses a timer unit which asserts a time-out signal which is received by control unit, indicating a pseudo-interrupt to the control unit (see column 7 lines 30-35). Furthermore, Bouvier discloses the disabling of processing unit when the countdown elapses, such as by asserting a back-off signal to processing unit, which would halt operations (see column 7 lines 44-46), indicating a interrupt process.

In regards to claim 15, Bouvier discloses:

wherein said notification device includes an access instruction issuance device making the device control unit access the failed device by issuing an access instruction to the device control unit and calling up an access process of the device control unit. Bouvier discloses a timer unit which asserts a timeout signal which is received by control unit, indicating an access instruction issuance device making the device control unit access the failed device by issuing an access instruction to the device control unit (see column 7 lines 30-35). Furthermore, Bouvier discloses the disabling of processing unit when the countdown elapses, such as by asserting a back-off signal to processing unit or causing the processing unit to execute in a closed loop (see column 7 lines 44-47), indicating calling up an access process of the device control unit.

In regards to claim 16, Bouvier discloses:

a notification judgment device judging whether the device control unit should be notified of the prohibition of use of the failed device. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see figure 2 item 252 and column 7 lines 30-35).

In regards to claim 17, Bouvier discloses:

Art Unit: 2113

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device group included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 18, Bouvier discloses:

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device control unit that performs control over a device included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 19, Bouvier discloses:

wherein said notification judgment device includes a device judging whether a device control unit should be notified of a prohibition of use of a failed device for each device included in the system. Bouvier discloses a timer unit that asserts a timeout signal to the control unit during the lapse of a countdown period (see column 7 lines 30-35).

In regards to claim 20, Bouvier discloses:

wherein said notification judgment device includes setting device setting information about whether the device control unit should be notified of the prohibition of use of the failed device, and outputs a judgment result corresponding to the set information. Bouvier discloses countdown period, indicating setting information, wherein the lapse of a countdown period causes a timeout signal be received by the control unit, indicating a judgment result corresponding to the set information (see column 7 lines 30-35).

In regards to claim 21, Bouvier discloses:

wherein said setting device includes a device setting the information for each device group included in the system (see column 7 lines 30-35).

In regards to claim 22, Bouvier disclose:

wherein said setting device includes a device setting the information for each device control unit that performs control over a device included in the system (see column 7 lines 30-35).

In regards to claim 23, Bouvier discloses:

Art Unit: 2113

wherein said setting device includes a device setting the information for each device included in the system (see column 7 lines 30-35).

In regards to claim 27, Bouvier discloses a computer readable storage medium on which a program is recorded, said program comprising:

determining a failure has occurred in a device and a use of the failed device is prohibited (see column 6 lines 30-35);

enabling a computer to perform notifying a device control unit that performs control over the failed device of the prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 29, Bouvier discloses a notification method, comprising:

determining a failure has occurred in a device and a use of the failed device is prohibited (see column 6 lines 30-35);

prohibiting use of the failed device and notifying a device control unit that performs control over the failed device, of the prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a

Art Unit: 2113

time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 32, Bouvier discloses a notification apparatus, comprising:

means for determining a failure has occurred in a device and a use of the failed device is prohibited (see column 6 lines 30-35);

prohibition means for prohibiting use of the failed device and notification means for notifying a device control unit that performs control over the failed device of the prohibition of use of the failed device by making the device control unit attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

In regards to claim 35, Bouvier discloses a transmission medium for transmitting a computer program, said program comprising:

determining a failure has occurred in a device and a use of the failed device is prohibited (see column 6 lines 30-35);

enabling the computer to perform notifying a device control unit that performs control over a failed device, of the prohibition of use of the failed device by making the device control unit to attempt to access the failed device, the device control unit recognizing the prohibition of use of the failed device if the device control unit is unable to access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the

Art Unit: 2113

processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device.

Claims 26, 28, 30, 33, and 36 are rejected under 35 U.S.C. **102(b)** as being anticipated by US Patent No. 5,280,606 of Jippo et al. referred hereinafter "Jippo".

In regards to claim 26, Jippo discloses a notification apparatus, comprising:

a first system including a confirmation device for determining, when a failure occurs in a device in the first system and use of the failed device is prohibited, whether use of any other devices in the first system should be prohibited as a result of the failed device (see column 4 lines 5-15).

a notification device for changing a state of the failed device and any other devices that are determined to be prohibited from use, to a state where another system related to the failed device can recognize a prohibition of use of the failed device and the other devices (see column 2 lines 23-30).

In regards to claim 28, Jippo discloses a computer-readable storage medium on which a program is recorded, said program comprising:

determining, when a failure occurs in a device in one system and use of the failed device is prohibited, whether use of any other devices in the first system should be prohibited as a result of the failed device (see column 4 lines 5-15).

enabling a computer to perform changing a state of the failed device and any other devices that are determined to be prohibited from use in the one system to a state where another system related to the failed device can recognize a prohibition of use of the failed device and the other devices (see column 2 lines 23-30).

In regards to claim 30, Jippo discloses a notification method, comprising:

prohibiting use of a failed device when a failure occurs in one system of an open system (see column 4 lines 5-10);

Art Unit: 2113

determining whether use of any other devices in the first system should be prohibited as a result of the failed device (see column 4 lines 10-15).

changing a state of the failed device and any other devices that are determined to be prohibited from use to a state where another system related to the failed device can recognize the prohibition of use of the failed device and the other devices (see column 2 lines 23-30),

the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device. Jippo discloses the master arithmetic processor comprising a cache memory, thus indicating a storage device (see figure 2 and column 3 lines 32-45).

In regards to claim 33, Jippo discloses a notification apparatus, comprising:

prohibition means for prohibiting use of a failed device when a failure occurs in one system (see column 4 lines 5-10);

determining whether use of any other devices in the first system should be prohibited as a result of the failed device (see column 4 lines 10-15).

notification means for changing a state of the failed device and any other devices that are determined to be prohibited from use to a state where another system related to the failed device can recognize the prohibition of use of the failed device and the other devices (see column 2 lines 23-30),

the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device. Jippo discloses the master arithmetic processor comprising a cache memory, thus indicating a storage device (see figure 2 and column 3 lines 32-45).

In regards to claim 36, Jippo discloses a transmission medium for transmitting a computer program for enabling a program, said program comprising:

determining, when a failure occurs in a device in one system and use of the failed device is prohibited, whether use of any other devices in the first system should be prohibited as a result of the failed device (see column 4 lines 5-15).

enabling a computer to perform changing a state of the failed device and any other devices that are determined to be prohibited from use in the one system to a state where another

Art Unit: 2113

system related to the failed device can recognize a prohibition of use of the failed device and the other devices (see column 2 lines 23-30).

the failed device being one of an input/output bus, display adapter, a display, a communication adapter, and a storage device. Jippo discloses the master arithmetic processor comprising a cache memory, thus indicating a storage device (see figure 2 and column 3 lines 32-45).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouvier in view of US Patent No. 6,401,119 of Fuss et al. referred hereinafter "Fuss".

In regards to claim 24 and 25, Bouvier fails to disclose:

a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device.

However, Fuss discloses determining whether another network element or device is affected by the detected event or failure (see abstract and column 7 lines 45-50), indicating a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device.

Art Unit: 2113

It would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate a confirmation device checking whether another device in the system is affected by the failed device, said system prohibiting use of a device affected by the failed device and said notification judgment device judging whether a device control unit that performs control over the affected device should be notified of the prohibition of use of the affected device. A person of ordinary skill in the art would have been motivated because Bouvier discloses detecting a failed device and determining whether another device is affected by the detected failure (see abstract and column 7 lines 45-50), as per teaching of Fuss, prevents affected device from affecting other devices.

Response to Arguments

Applicant's arguments filed March 14, 2005 have been fully considered but they are not deemed to be persuasive.

Claims 13-25, 27, 29, 32, and 35 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as disclosed above. For this reason alone, claim 13-25, 27, 29, 32, and 35 stand rejected and arguments are moot.

In response to applicant's argument "In contrast, the device control unit in the present invention attempts to access the failed device upon being notified by the notifying device that the failure has already occurred to the device," such limitation is not disclosed in the claim. Nowhere in the claim does applicant cite attempting to access the failed device *upon being notified by the notifying device* that the failure has already occurred. If applicant would like examiner to interpret such claim to indicate a device control unit attempting to access the failed device upon being notified by the notifying device that the failure has already occurred to the device, examiner suggest applicant to cite such language in the claims.

Rather, applicant claims a notification device notifying a device control unit by enabling the device control unit to attempt to access the failed device and the device control unit recognizing the prohibition of the use of the failed device if the device control unit is unable to

Art Unit: 2113

access the failed device. Bouvier discloses the control unit 240 asserting reset pulses to the processing units (see column 6 lines 1-8), indicating attempting to access the failed device, and when there is a failure to reset the processing units, indicating being unable to access the failed device, the timer control bit is not set (see column 6 lines 50-52), which causes a countdown to a timer and assertion of a time-out signal to the control unit, indicating the failure to the control unit (see column 7 lines 30-35). By receiving the timeout signal, the control unit recognizes the failure, thus indicating the device control unit recognizing the prohibition of use of the failed device. Argument is moot. Examiner maintains his rejection.

In response to applicant's argument regarding claims 26, 28, 30, 33, and 36, applicant's amendment necessitated new grounds of rejection disclosed in the above rejection. Arguments are moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action for claims 26, 28, 30, 33, and 36. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C. Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.


Art Unit: 2113

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Emerson Puente

5/2/05


ROBERT BEAUSOLIEL
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